

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19739
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff's decision adjusting the property tax reduction benefit for 2006. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit is available to certain qualifying individuals. The benefit is in the form of payment of all or a portion of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax. The amount of property tax reduction depends on income--the greater the income, the smaller the benefit.

[Redacted] (petitioner) filed an application for a property tax reduction benefit [Redacted] on March 9, 2006. In her application, the petitioner listed federal adjusted gross income of \$1,389 and social security income of \$12,096 less medical expenses of \$4,033.64 for a total net income of \$9,451.36.

The staff sent the petitioner a notice advising her of the intent to increase her income by including gains from the sale of stock in the total amount of \$49,500. The petitioner's son appealed the intended action, and her file was transferred to the Legal/Tax Policy Division for administrative review.

Income for property tax reduction benefit purposes is defined in Idaho Code § 63-701(5):

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

- (a) Alimony;
- (b) Support money;
- (c) Nontaxable strike benefits;
- (d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding any return of principal paid by the recipient of an annuity and excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);
- (e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;
- (f) Worker's compensation; and
- (g) The gross amount of loss of earnings insurance.

It does not include gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission in such form as the county assessor, board of equalization or state tax commission shall determine. "Income" shall

be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W2 and 1099.

The petitioner's son asked for additional time to locate documents that would identify the principal portion of the proceeds from the sale of the stock. Additional time was allowed before her file was transferred to the Legal/Tax Policy Division. When no response was received to a letter advising the petitioner of her appeal rights, the Tax Appeals Specialist telephoned the petitioner for information. The petitioner's daughter answered the telephone call stating that her mother had passed away the day before. She said she would have her brother return the call at a later date to discuss the property tax reduction benefit. When no response was received, a letter was sent to the petitioner's estate. No response was received to that letter, and the petitioner's telephone was reported to be disconnected.

After further research, the Tax Appeals Specialist obtained the son's telephone number and called him. He said he did not know anything about his mother's finances. He said he would have his sister return the call. When the sister called, she said she did not have any knowledge of her mother's finances because her older brother handled all of their mother's investments [Redacted] The sister was advised to contact her mother's broker for documentation that would show her mother's original investments and establish the portions that were gains.

No additional information has been received to clarify the petitioner's gains from her 2005 stock sales. Absent purchase information, the State Tax Commission has no way of determining the portion of the liquidated funds that was return of principal. The entire transaction must be included in the petitioner's income for the property tax reduction benefit.

When the income of \$9,451 that was reported by the petitioner in her application is increased by the \$49,500 stock sales, the petitioner's 2005 total net income for the purpose of the 2006 property tax reduction benefit was \$59,889. The maximum amount allowed for a 2006 minimum benefit is \$28,000. The petitioner's estate must be denied the 2006 property tax reduction benefit.

WHEREFORE, the Intent to Deny Property Tax Reduction Benefit letter dated September 27, 2006, is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]
[REDACTED]

Receipt No.
